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Letter dated 15 August 2017 from the Secretary-General addressed to the President of the Security Council

Following the deaths of Ms. Zaida Catalán and Mr. Michael Sharp, members of the Group of Experts on the Democratic Republic of the Congo, in March 2017, a United Nations Security Management System Board of Inquiry was convened to establish the facts related to the incident. The Board of Inquiry was also tasked with evaluating the United Nations response to the incident, reviewing the application and adequacy of relevant security risk management procedures, rules and regulations, and providing recommendations on actions that should be taken to avoid such incidents in the future.

By this letter I wish to transmit to you the executive summary of the report of the Board of Inquiry, which provides a synopsis of the findings and recommendations contained therein. A copy of this executive summary will also be provided to the families of Ms. Catalán and Mr. Sharp, and to the Permanent Missions to the United Nations of Chile, the Democratic Republic of the Congo, Sweden and the United States of America.

While the Secretariat looks forward to the opportunity to brief the members of the Security Council on the report of the Board of Inquiry, I wish to note that the Board has indicated that further investigations and judicial processes would be required to fully ascertain the identity, affiliations and motives of the individuals involved in the killing of Mr. Sharp and Ms. Catalán.

In this regard, I intend to discuss with officials of the Democratic Republic of the Congo and consult with Council members regarding the establishment of a follow-on mechanism and its mandate.

In its report, the Board of Inquiry also provided recommendations on actions that the Organization could consider to strengthen the management and support arrangements of Groups of Experts reporting to the Security Council and its sanctions committees, as well the manner in which Groups of Experts should comply with the requirements of the applicable security policies and procedures established under the United Nations Security Management System. The Secretariat is currently reviewing these recommendations, some of which carry financial implications, with a view to developing a plan for their implementation, as appropriate.

I wish, once again, to pay tribute to the dedication of Ms. Catalán and Mr. Sharp to the United Nations, in the service of peace in the Democratic Republic of the Congo, to which they paid the ultimate price.

(*Signed*) António **Guterres**

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Annex

Report of the United Nations Security Management System Board of Inquiry on the critical security incident resulting in the deaths of two members of the Group of Experts in Kananga, Democratic Republic of the Congo

Executive summary

Introduction

1. On 24 April 2017, the Under-Secretary-General for Safety and Security, in consultation with the Executive Office of the Secretary-General and the Under-Secretaries-General for Political and Legal Affairs, convened the United Nations Security Management System Board of Inquiry on the critical security incident resulting in the deaths of two members of the Group of Experts in Kananga, Democratic Republic of the Congo. Mr. Michael Sharp (United States of America) and Ms. Zaida Catalán (dual national of Chile and Sweden) were members of the Group of Experts on the Democratic Republic of the Congo. Mr. Sharp was the Coordinator of the Group and also one of the two designated armed group experts, while Ms. Catalán was the humanitarian issues expert.

2. The Group of Experts was mandated by Security Council resolution 1533 (2004). The mandate of the Group of Experts was subsequently renewed, inter alia by resolution 2293 (2016), by which the Experts were directed to provide information to the Committee established pursuant to resolution 1533 (2004) on, among other issues, violations of human rights or international humanitarian law; support for armed groups or criminal networks involved in the illicit exploitation of natural resources; recruiting or use of children in armed conflict; designation of individuals or entities involved in non-compliance with the sanctions; and attacks on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (MONUSCO).

Board of Inquiry

3. The Board of Inquiry comprised former (retired) members of the Department of Safety and Security, the Department of Peacekeeping Operations and the Department of Political Affairs. Mr. Gregory Starr, the former Under-Secretary-General for Safety and Security, was the Chair of the Board. The Board operated with full independence and impartiality.

4. The terms of reference of the Board included the review of all preliminary investigation reports, establishment of the facts related to the incident, including circumstances leading to the incident and the identification (to the extent possible) of the attackers, evaluation of all actions taken by the United Nations in response to the incident, determination of whether relevant security risk management procedures, rules and regulations were followed properly and whether they were adequate, and providing recommendations concerning any actions, steps or measures that should be taken by the United Nations Security Management System to avoid such incidents in the future.

5. The Board of Inquiry commenced its work on 8 May 2017 in New York by reviewing preliminary investigation reports, records relevant to the activities of the Group of Experts and their mandate and interviewing relevant United Nations officials at Headquarters. From 6 to 17 June 2017, the Board travelled to the

Democratic Republic of the Congo including to Kinshasa, Goma and Kananga, to conduct further interviews and review relevant information. The Board submitted its final report on 2 August 2017.

6. In the course of its inquiry, the Board interviewed and obtained witness statements from United Nations officials and non-United Nations personnel, had discussions with representatives of the Government of the Democratic Republic of the Congo, met with officials from eight Permanent Missions of Member States to the United Nations, and conducted discussions with non-United Nations organizations and national investigation authorities of the Member States concerned. The Board also met with the families of the two Experts who were killed.

7. A Board of Inquiry is an analytical and managerial tool to review investigation reports, establish facts related to critical security incidents involving organizations of the United Nations Security Management System, including whether the incident occurred as a result of the acts or omissions of any individual(s). The purpose of a Board of Inquiry is to identify gaps or deficiencies in security risk management policies, procedures or operations, to strengthen security risk management controls (lessons learned) and to improve accountability for security risk management. A Board of Inquiry is neither an investigative nor a judicial review mechanism.

Facts related to the incident established by the Board

8. On 8 March 2017, Mr. Sharp and Ms. Catalán arrived in the city of Kananga in Kasai Central Province, Democratic Republic of the Congo, via a United Nations humanitarian air service flight from Goma, North Kivu Province. Their visit followed a previous trip to Kananga in January 2017. The primary purpose of their visit, in accordance with their mandate, was to gather information on armed groups, inquire into sources of violence in the Kasai provinces, and look into reports of purported use of children in conflict.

9. On 11 March, Mr. Sharp and Ms. Catalán met with a small group of people presenting themselves as having connections with the Kamuina Nsapu militia. The meeting led to a decision by the two Experts to travel the next day through parts of Kasai Province to the town of Bunkonde for meetings with the Kamuina Nsapu militia leaders in that area. An audio recording of the meeting was reviewed by the Board.

10. On the morning of 12 March, the two Experts departed their hotel in Kananga en route to the town of Bunkonde (90 km south-east of Kananga) in furtherance of their investigation. They were accompanied by a locally hired Congolese citizen who served as their interpreter. They travelled on motorcycles driven by three locally hired Congolese citizens.

11. The Board was informed that the two Experts and the four Congolese persons passed through two Forces armées de la République démocratique du Congo checkpoints on the way to Bunkonde, and two Kamuina Nsapu militia checkpoints thereafter. Sources reported that a militia group gathered near the Moyo River crossing close to the village of Moyo Musuila on the route to Bunkonde and fired a shotgun to stop the motorcycles, wounding one of the drivers.

12. Before arriving at their destination, the two Experts and their party were accosted by persons who appeared to be members of a local militia group. This militia group killed Mr. Sharp and Ms. Catalán near the village of Moyo Musuila, a location approximately 10 to 15 km from the town of Bunkonde. These facts were established on the basis of a video recording of the incident by a member of the

militia group. There are reports that the Congolese interpreter and the three motorcycle drivers were also killed, but their bodies have not been found to date.

13. On the basis of information from witnesses, 10 individuals seen in the video have been identified. There remains a lack of additional physical or forensic evidence of the involvement of individuals in the attack beyond the video. The United Nations has provided all relevant information and evidence in its possession to the national authorities. At the time of the issuance of the Board's report, the Congolese authorities had arrested two men who appeared in the video. The Congolese authorities had also arrested 10 men who did not appear in the video but who are believed to be members of the militia group involved. The Board was informed that proceedings against the suspects were being conducted in a military court because the military prosecutor has jurisdiction over crimes committed in the Democratic Republic of the Congo involving the use of firearms. The Board was also informed that Kasai Central Province had been declared a military zone by the authorities of the Democratic Republic of the Congo and that the military prosecutor in Kananga has taken the lead in the investigation.

Facts subsequent to the incident established by the Board

14. By nightfall on 12 March, it was confirmed that Mr. Sharp and Ms. Catalán had not returned from their trip, and repeated attempts to contact them were unsuccessful. United Nations Headquarters and senior mission staff members were immediately informed. On the morning of 13 March, United Nations crisis management procedures were activated, and the Government of the Democratic Republic of the Congo as well as the Embassies and Permanent Missions of Sweden and the United States and subsequently Chile were apprised of the situation involving the two missing Experts.[1]

15. From 13 to 28 March, MONUSCO conducted a search for the two missing Experts. The Uruguay Battalion in Tshimbulu was dispatched on the morning of 13 March with additional resources immediately mobilized in Kinshasa, Goma, Kananga and Headquarters in New York. The Uruguay Battalion conducted both air and ground patrols in the Bunkonde area starting on Tuesday, 14 March. In the course of the search efforts, additional formed units of Tanzanian Special Forces, helicopters, communications equipment, and other additional resources were flown into Kananga to bolster the search operation. The difficult terrain made it necessary for the ground patrols to search on foot, and they encountered numerous armed elements, some of them belligerent.

16. A dedicated information management unit comprising staff from the mission's Joint Operations Centre and Joint Mission Analysis Centre was established for gathering, analysing and sharing information for the search effort.

17. On 27 March, a shallow grave with two bodies, one male and the other female, appearing to be Caucasian, was discovered. The site was secured overnight by United Nations forces and the Government of the Democratic Republic of the Congo and the Swedish and United States Embassies in Kinshasa were informed. On 28 March, forensic officers of the police component of MONUSCO exhumed the bodies and transported them to the United Nations compound in Kananga. On 29 March, the two bodies were identified as those of Mr. Sharp and Ms. Catalán. On 29 March, the families of Mr. Sharp and Ms. Catalán were informed of the positive identification of the bodies by a senior United Nations official in the presence of a stress counsellor.

[1] The Security Council was also notified of the situation on 13 March.

18. On 1 April, following a United Nations ceremony in their honour, the remains of Mr. Sharp and Ms. Catalán were transferred by United Nations aircraft to Entebbe, Uganda, for autopsies and embalming procedures. On 2 April, Ms. Catalán's autopsy was conducted in Kampala. On 4 April, Mr. Sharp's autopsy was conducted in Kampala. Following the autopsies, the remains of Mr. Sharp and Ms. Catalán were repatriated to the United States and Sweden.

Deliberations and conclusions of the Board

19. The Board found that a group of Congolese, likely militia members from Kasai Central Province, was responsible for the deaths of Mr. Sharp and Ms. Catalán and was likely also responsible for the deaths of the Congolese translator and the three motorcycle drivers. It also found that there was a reasonable likelihood that the killings were committed after consultation with other local tribal actors. The Board noted that investigative support by United Nations police to the Government of the Democratic Republic of the Congo as well as investigative activities by the Democratic Republic of the Congo provided information that led to the identification of the individuals in the video recording. The Board held that without further investigation and the necessary judicial processes, the identity, affiliations and motives of the group that participated in the killing of Mr. Sharp and Ms. Catalán cannot be fully established, but the video recording leaves no doubt that Mr. Sharp and Ms. Catalán were murdered.

20. The Board was informed of several alternate causes of the incident. It is the judgment of the Board that information circulating regarding the possible involvement of various government individuals or organizations does not provide proof of intent or motive on the part of any individual(s). It noted that an absence of evidence however does not preclude the possibility that others are involved. Additional investigations, including those conducted by national authorities, may provide greater clarity on this issue.

21. The Board found that the two Experts were performing their official duties at the time of the incident. The purpose of their trip was to conduct first-person interviews and make first-person observations in accordance with the Committee mandates and Security Council resolution 2293 (2016).

22. Through interviews of United Nations personnel in Kinshasa, Goma and Kananga, as well as with personnel in New York, the Board found the overall United Nations response from the time it became apparent that Mr. Sharp and Ms. Catalán were missing was capable, timely, well-coordinated and caring. The Mission was highly focused on finding the two missing Experts and the four accompanying Congolese, and mobilized all available assets in this effort. Regular updates were provided to the families of the missing Experts, the other members of the Group of Experts, the Governments of the Democratic Republic of the Congo, Chile, Sweden and the United States of America.

23. The Board found that the United Nations had a fully functional, in-depth security programme in place that was adequately staffed and resourced to perform required security functions. Security training was readily available for United Nations personnel and for the personnel of the organizations that participate in the United Nations Security Management System. Adequate checks ensured that mandatory training was generally taken and security procedures for personal security, home security, travel security and facilities security functioned as they should.

24. The Board has identified several areas of concern, however. The Board found through interviews and observations that the members of Groups of Experts do not

believe that the United Nations Security Management System regulations pertain to them. The Board did not believe that the actions of either Mr. Sharp or Ms. Catalan contributed to the outcome.

Recommendations

25. The Board made a number of recommendations in the following areas:

(a) Advocacy for the criminal investigation to be conducted and completed by the Government of the Democratic Republic of the Congo, under its jurisdiction, and with the support of other Member States, in a transparent and conclusive manner, ensuring that the perpetrators of this crime are brought to justice;

(b) Review and strengthening of the management of the activities of Groups of Experts, including training, coordination frameworks, reporting lines, and support to their activities by field missions;

(c) Inclusion of all security aspects of the activities and personnel of Groups of Experts into the mandatory framework of the United Nations Security Management System, including the application of programme criticality and security risk management processes to enable informed decisions on acceptable security risks;

(d) Review, evaluation and adjustment of the support arrangements for Groups of Experts, in consultation with relevant legislative and budgetary bodies, to enable the safe and effective implementation of their mandates.

26. The United Nations Secretariat is now reviewing all these recommendations with a view to developing a comprehensive implementation plan, as appropriate.